

0 Valuation of Security      0 Assumption of Executory Contract or Unexpired Lease      0 Lien Avoidance

Last revised: December 1, 2017

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

In Re:

Case No.: 17-33781(KCF)

Stephen Gialanella

Judge: Kathryn C. Ferguson

Debtor(s)


## Chapter 13 Plan and Motions

☐ Original☒ Modified/Notice RequiredDate: March 13, 2018☐ Motions Included☐ Modified/No Notice RequiredTHE DEBTOR HAS FILED FOR RELIEF UNDER  
CHAPTER 13 OF THE BANKRUPTCY CODE

## YOUR RIGHTS MAY BE AFFECTED

You should have received from the court a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the *Notice*. Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated. This Plan may be confirmed and become binding and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice. The Court may confirm this plan, if there are no timely filed objections, without further notice. See Bankruptcy Rule 3015. If this plan includes motions to avoid or modify a lien, the lien avoidance or modification may take place solely within the chapter 13 confirmation process. The plan confirmation order alone will avoid or modify the lien. The debtor need not file a separate motion or adversary proceeding to avoid or modify a lien based on value of the collateral or to reduce the interest rate. An affected lien creditor who wishes to contest said treatment must file a timely objection and appear at the confirmation hearing to prosecute same.

THIS PLAN:

☐ DOES ☒ DOES NOT CONTAIN NON-STANDARD PROVISIONS. NON-STANDARD PROVISIONS MUST ALSO BE SET FORTH IN PART 10.☐ DOES ☒ DOES NOT LIMIT THE AMOUNT OF A SECURED CLAIM BASED SOLELY ON VALUE OF COLLATERAL, WHICH MAY RESULT IN A PARTIAL PAYMENT OR NO PAYMENT AT ALL TO THE SECURED CREDITOR. SEE MOTIONS SET FORTH IN PART 7, IF ANY.☐ DOES ☒ DOES NOT AVOID A JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY SECURITY INTEREST. SEE MOTIONS SET FORTH IN PART 7, IF ANY.Initial Debtor(s)' Attorney: Initial Debtor: S.G.

Initial Co-Debtor: \_\_\_\_\_

**Part 1: Payment and Length of Plan**

a. The debtor shall pay \$ 803.00 per month to the Chapter 13 Trustee, starting on December 1, 2017 for 3 months followed by monthly payments of \$807.00 beginning on March 1, 2018 for the remaining 57 months of the plan.

b. The debtor shall make plan payments to the Trustee from the following sources:

☒ Future earnings

☐ Other sources of funding (describe source, amount and date when funds are available):

c. Use of real property to satisfy plan obligations:

☐ Sale of real property

Description:

Proposed date for completion: \_\_\_\_\_

☐ Refinance of real property:

Description:

Proposed date for completion: \_\_\_\_\_

☐ Loan modification with respect to mortgage encumbering property:

Description:

Proposed date for completion: \_\_\_\_\_

d. ☐ The regular monthly mortgage payment will continue pending the sale, refinance or loan modification.

e. ☐ Other information that may be important relating to the payment and length of plan:

**Part 2: Adequate Protection ☒ NONE**

a. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to \_\_\_\_\_ (creditor).

b. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid directly by the debtor(s) outside the Plan, pre-confirmation to: \_\_\_\_\_ (creditor).

**Part 3: Priority Claims (Including Administrative Expenses)**

a. All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Creditor	Type of Priority	Amount to be Paid
CHAPTER 13 STANDING TRUSTEE	ADMINISTRATIVE	AS ALLOWED BY STATUTE
Internal Revenue Service	Income Taxes	\$21,490.29

b. Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount:  
Check one:

☒ None

☐ The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim pursuant to 11 U.S.C.1322(a)(4):

Creditor	Type of Priority	Claim Amount	Amount to be Paid
	Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount:		

**Part 4: Secured Claims**

a. Curing Default and Maintaining Payments on Principal Residence: ☐ NONE

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)
Ditech	Mortgage on Residence	\$183.47	Included	\$183.47	\$1,531.97

**b. Curing and Maintaining Payments on Non-Principal Residence & other loans or rent arrears: ☒ NONE**

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor will pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Creditor	Collateral or Type of Debt	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor (In Plan)	Regular Monthly Payment (Outside Plan)

**c. Secured claims excluded from 11 U.S.C. 506: ☒ NONE**

The following claims were either incurred within 910 days before the petition date and are secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or incurred within one year of the petition date and secured by a purchase money security interest in any other thing of value:

Name of Creditor	Collateral	Interest Rate	Amount of Claim	Total to be Paid through the Plan Including Interest Calculation

**d. Requests for valuation of security, Cram-down, Strip Off & Interest Rate Adjustments ☒ NONE**

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

**NOTE: A modification under this Section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.**

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to be Paid

2.) Where the Debtor retains collateral and completes the Plan, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

**e. Surrender ☒ NONE**

Upon confirmation, the stay is terminated as to surrendered collateral only under 11 U.S.C. 362(a) and that the stay under 11 U.S.C 1301 be terminated in all respects. The Debtor surrenders the following collateral:

Creditor	Collateral to be Surrendered	Value of Surrendered Collateral	Remaining Unsecured Debt

**f. Secured Claims Unaffected by the Plan ☐ NONE**

The following secured claims are unaffected by the Plan:

Wells Fargo Dealer Services, the holder of a purchase money security interest in the Debtor's 2013 Kia Sportage. The Debtor shall pay regular monthly automobile loan payments of \$404.56 outside of the plan in the ordinary course.

**g. Secured Claims to be Paid in Full Through the Plan: ☒ NONE**

Creditor	Collateral	Total Amount to be Paid Through the Plan

**Part 5: Unsecured Claims ☐ NONE**

**a. Not separately classified** allowed non-priority unsecured claims shall be paid:

- ☐ Not less than \$ \_\_\_\_\_ to be distributed *pro rata*  
☒ Not less than one hundred percent (100%)  
☐ *Pro Rata* distribution from any remaining funds

**b. Separately classified unsecured** claims shall be treated as follows:

Creditor	Basis for Separate Classification	Treatment	Amount to be Paid
N/A			

**Part 6: Executory Contracts and Unexpired Leases ☒ NONE**

(NOTE: See time limitations set forth in 11 U.S.C. 365(d)(4) that may prevent assumption of non-residential real property leases in this Plan.)

All executory contracts and unexpired leases, not previously rejected by operation of law, are rejected, except the following, which are assumed:

Creditor	Arrears to be Cured in Plan	Nature of Contract or Lease	Treatment by Debtor	Post-Petition Payment

**Part 7: Motions ☒ NONE**

**NOTE: All plans containing motions must be served on all potentially affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service, Notice of Chapter 13 Plan Transmittal and valuation* must be filed with the Clerk of Court when the plan and transmittal notice are served.**

**a. Motion to Avoid Liens Under 11. U.S.C. Section 522(f). ☒ NONE**

The Debtor moves to avoid the following liens that impair exemptions:

Creditor	Nature of Collateral	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided

**b. Motion to Avoid Liens and Reclassify Claim from Secured to Completely Unsecured. ☒ NONE**

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor's Interest in Collateral	Total Amount of Lien to be Reclassified

**c. Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured. ☒ NONE**

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above:

Creditor	Collateral	Scheduled Debt	Total Collateral Value	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured

**Part 8: Other Plan Provisions**

**a. Vesting of Property of the Estate**

☒ Upon confirmation

☐ Upon discharge

**b. Payment Notices**

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

**c. Order of Distribution**

The Standing Trustee shall pay allowed claims in the following order:

- 1) Ch. 13 Standing Trustee commissions
- 2) Administrative claims, if any
- 3) Secured claims
- 4) Priority unsecured claims
- 5) General unsecured claims

**d. Post-Petition Claims**

The Standing Trustee ☐ is, ☒ is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

**Part 9: Modification ☐ NONE**

If this Plan modifies a Plan previously filed in this case, complete the information below.

Date of Plan being modified: November 27, 2017.

Explain below **why** the plan is being modified:

The Chapter 13 Trustee filed an objection to the Debtor's original Plan.

Explain below **how** the plan is being modified:

The arrearage claim filed by Ditech in the amount of \$183.47 shall be paid in full through the plan. The priority claim of the IRS in the amount of \$21,490.29 shall be paid in full through the plan. Allowed claims of general unsecured creditors shall be paid in full through the plan. The Debtor's monthly plan payments shall increase to \$807.00 beginning in March, 2018 for the remaining 57 months to fund the plan.

Are Schedules I and J being filed simultaneously with this Modified Plan?

☐

Yes

☒

No



**Part 10: Non-Standard Provision(s): Signatures Required**

Non-Standard Provisions Requiring Separate Signatures:

☒ NONE

☐ Explain here:

Any non-standard provisions placed elsewhere in this plan are void.

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Certification.

I certify under penalty of perjury that the plan contains no non-standard provisions other than those set forth in this final paragraph.

Date: 3-13-18

  
Peter J. Broege, Esq., Attorney for the Debtor

Date: 3/12/18

  
Stephen Gialanella, Debtor

**Signatures**

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Plan

Date: 3-13-18

  
Peter J. Broege, Esq., Attorney for the Debtor

I certify under penalty of perjury that the above is true.

Date: 3/12/18

  
Stephen Gialanella, Debtor

## Certificate of Notice Page 10 of 10

United States Bankruptcy Court  
District of New JerseyIn re:  
Stephen Gialanella  
DebtorCase No. 17-33781-KCF  
Chapter 13**CERTIFICATE OF NOTICE**

District/off: 0312-3

User: admin  
Form ID: pdf901Page 1 of 1  
Total Noticed: 9

Date Rcvd: Mar 15, 2018

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 17, 2018.

db Stephen Gialanella, 246 Van Zile Rd, Brick, NJ 08724-2552  
 517198428 +Orion, c/o of PRA Receivables Management, LLC, PO Box 41021, Norfolk, VA 23541-1021  
 517194916 Wells Fargo Dealer Services, Bankruptcy Department, PO Box 3569,  
 Rancho Cucamonga, CA 91729-3569

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
smg E-mail/Text: usanj.njbankr@usdoj.gov Mar 15 2018 23:18:10 U.S. Attorney, 970 Broad St.,  
Room 502, Rodino Federal Bldg., Newark, NJ 07102-2534smg +E-mail/Text: ustpreion03.ne.ecf@usdoj.gov Mar 15 2018 23:18:05 United States Trustee,  
Office of the United States Trustee, 1085 Raymond Blvd., One Newark Center, Suite 2100,  
Newark, NJ 07102-5235517194913 E-mail/Text: bankruptcy.bnc@ditech.com Mar 15 2018 23:17:46 Ditech, Bankruptcy Department,  
PO Box 6154, Rapid City, SD 57709-6154517230424 E-mail/Text: bankruptcy.bnc@ditech.com Mar 15 2018 23:17:46  
Ditech Financial LLC fka Green Tree Servicing LLC, P.O. Box 6154,  
Rapid City, South Dakota 57709-6154517194915 E-mail/Text: cio.bncmail@irs.gov Mar 15 2018 23:17:29 Internal Revenue Service,  
Centralized Insolvency Operation, PO Box 7346, Philadelphia, PA 19101-7346517316015 +E-mail/PDF: EBN\_AIS@AMERICANINFOSOURCE.COM Mar 15 2018 23:21:43 Verizon,  
by American InfoSource LP as agent, 4515 N Santa Fe Ave, Oklahoma City, OK 73118-7901  
TOTAL: 6

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*

517194914\* Internal Revenue Service, Special Procedures, PO Box 744, Springfield, NJ 07081-0744  
TOTALS: 0, \* 1, ## 0Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

**I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.****Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Mar 17, 2018

Signature: /s/Joseph Speetjens**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 13, 2018 at the address(es) listed below:

Albert Russo docs@russotrustee.com  
 Denise E. Carlon on behalf of Creditor Ditech Financial LLC dcarlon@kmlawgroup.com,  
 bkgroup@kmlawgroup.com  
 Kevin Gordon McDonald on behalf of Creditor Ditech Financial LLC kmcdonald@blankrome.com,  
 bkgroup@kmlawgroup.com  
 Peter Broege on behalf of Debtor Stephen Gialanella pbroege@bnfsbankruptcy.com,  
 G1580@notify.cincompass.com  
 U.S. Trustee USTPRegion03.NE.ECF@usdoj.gov

TOTAL: 5